

Serial No. 09/980,421
Puskas
Response to Office Action

REMARKS

The Examiner repeats his argument from an earlier Office Action that Applicant's argument fails to comply with 37 CFR 1.111(b) because the claims do not recite the feature which Applicant claims is not taught or rendered obvious by the cited prior art. Applicant clearly pointed out in the prior response that the claim language "to achieve controlled intermittent asystole" clearly distinguishes the claimed devices over the cited prior art. Thus, the argument does comply with 37 CFR 1.111(b).

The Examiner has rejected all pending claims 1, 4-16, and 41-53 on the basis of obviousness over U.S. Patent No. 4,640,298 to Pless et al. ("Pless") in view of U.S. Patent No. 7,072,720 to Puskas ("Puskas"). The Examiner has changed this rejection from Pless alone to this rejection over the combination of Pless and Puskas.

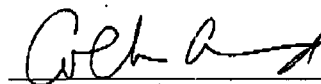
Applicant asserts that the Examiner cannot cite Puskas against the present application because it is not prior art. In fact, Puskas is a continuation application of the present application. See the front page of Puskas priority data: "Continuation of application No. 09/980,421".

Pless has been extensively discussed in previous responses and Applicant assumes that the Examiner no longer asserts that the claimed invention is obvious over Pless alone. Accordingly, the present claims should be allowed.

Application Priority

As the Examiner acknowledged in the telephone conversation on August 27, the present application is entitled to an earlier filing date than that shown. A copy of a Request to Correct Filing Receipt was filed on December 16, 2002- it was apparently never acted upon. A copy is attached. The correct filing date of the present application is November 30, 2001, the date on which Applicant filed the 371 application.

Respectfully submitted,



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